



**TESTIMONY OF THOMAS O'KEEFE, PhD
PACIFIC NORTHWEST STEWARDSHIP DIRECTOR
ON BEHALF OF AMERICAN WHITewater**

**OREGON STATE HOUSE
House Committee on Transportation Policy
Representative Caddy McKeown, Chair**

**HEARING ON HOUSE BILL 2320
Directs the State Marine Board to Create Nonmotorized Boating Program**

**Hearing Room D
Oregon State Capitol
MARCH 1, 2017**

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954 with approximately 6000 individual members and 100 local-based affiliate clubs, representing whitewater paddlers across the nation. American Whitewater's mission is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. Through our individual members and affiliate clubs, we represent approximately 3000 paddlesports enthusiasts who live in Oregon and enjoy the 100's of spectacular whitewater runs throughout the state by kayak, canoe, whitewater raft, paddleboard, and packraft. Many of our members also enjoy flatwater paddling opportunities on lakes and rivers in the state and engage in sea kayaking in the marine environment.

American Whitewater has concerns with HB 2320. This bill would institute a new Non-Motorized Boating Program that would be supported by user fees. While American Whitewater appreciates the public engagement process the Oregon State Marine Board (Marine Board) initiated to develop the legislative proposal represented by HB 2320, we remain unconvinced of the need for this program and have concerns with the revenue proposal to support it.

Non-Motorized Boating Permit

The most controversial element of the Non-Motorized Boating program among our membership is the Non-Motorized Boating Permit. Under the proposal considered in Section 7 of HB 2320, a person 14 years of age or older would be required to carry a Non-Motorized Boating Permit while operating a Non-Motorized Boat (i.e. any boat not propelled by machinery). American Whitewater surveyed our membership in Oregon to gauge reactions to this proposal with 185 individuals responding. Regarding the establishment of a Non-Motorized Boating Permit, 7% were in strong support and 18% were moderately supportive while 35% were strongly opposed and 12% moderately opposed.

Even among those who were supportive of a new program for non-motorized boating, there was overwhelming concern over the ability of the Marine Board to implement a program that would meet the needs of the paddlesports community: 0% of respondents to our survey strongly agreed with the statement that "the Marine Board effectively represents paddlesports" while 26% strongly disagreed, and 0% of respondents strongly agreed with the statement that "the Marine Board understands the needs of the paddlesports community," while 29% strongly disagreed.

In considering the establishment of a permit system, the experience of the neighboring state of Washington is informative. Washington State created a water trail program in 1993 supported by user fees. The enabling legislation for the program stated that "the water trail program account is created in the state treasury. All receipts from sales of materials pursuant to section 2 of this act, from state-wide water trail permit fees collected pursuant to section 5 of this act, and all monetary civil penalties collected pursuant to section 8 of this act shall be deposited in the water trail program account."¹ Similar to the scope of programs considered under HB 2320, funds generated through user fees for Washington's water trail program were directed towards "(1) Administration, acquisition, development, operation, planning, and maintenance of water trail lands and facilities, and grants or contracts therefor; and (2) the development and implementation of water trail informational, safety, enforcement, and education programs, and grants or contracts therefor." When revenue did not meet expectations, the permit program in Washington State was eliminated by the legislature in 2003.²

The user-fee structures for outdoor recreation in both Oregon and Washington are currently very complex. Similar to Oregon, "recreation enthusiasts in Washington must acquire—and, in most cases, display on a motor vehicle—no fewer than five different permits to access trails and lands set aside specifically for outdoor pursuits by various public and private entities."³

The Washington state legislature has sought to address the issue. In 2016, it provided funding to "coordinate a process to develop options and recommendations to improve consistency, equity and simplicity in recreational access fee systems while accounting for the fiscal health and stability of public land management,"⁴ Based on the feedback from our membership, we urge the Oregon legislature to conduct a similar analysis of permits and user fees prior to implementing another user fee as proposed by HB 2320.

Regarding the mechanism for collecting fees if a user-fee were implemented, our members were overwhelmingly supportive of a permit for boating activity rather than a system that requires registration per boat. In our survey, 88% of all respondents—

¹ SUBSTITUTE HOUSE BILL 1518, Chapter 182, Laws of 1993, 53rd Legislature, 1993 Regular Session, WATER TRAIL RECREATION PROGRAM, EFFECTIVE DATE: 7/25/93.

² SUBSTITUTE HOUSE BILL 1335, Chapter 338, Laws of 2003, 58th Legislature, 2003 Regular Session, WATER TRAIL RECREATION, EFFECTIVE DATE: 7/27/03

³ William D. Ruckelshaus Center description for Recreation Access Project, <http://ruckelshauscenter.wsu.edu/projects/current-projects/>, accessed February 28th, 2017.

⁴ Washington State Senate PSSB 6246 – A COMM AMD TO S-4871.1

including those who were strongly opposed to any user fee—strongly agreed that a boating permit was preferable to a per boat registration fee.

Oregon State Marine Board as Agency to Implement Program

As noted above, many paddlesports enthusiasts have concerns with the ability of the Marine Board to represent the interests of the paddlesports community. A significant barrier is the name of the agency which implies a focus on the marine environment. If the agency is serious about representing all boating enthusiasts in the state, the name needs to be changed to reflect this.

The lack of confidence in the ability of the Marine Board to represent paddlesports is also reflected in the terminology used by the agency. For example, the Marine Board’s web page for non-motorized boaters characterizes waterways as “similar to a highway system.”⁵ This bias may be appropriate in the marine environment or areas of heavy boat traffic that are the focus of the Marine Board but it is not how most paddlesports enthusiasts frame their recreational experience. Most paddlers characterize waterways as a water trail and not a highway.

Other agencies have traditionally focused on meeting the needs of our community in Oregon and understand the water trail concept. The Oregon Water Trails Program is administered by the Oregon Parks and Recreation Department⁶ while the National Park Service administers a national water trail program.⁷ Federal land managers, including the United States Forest Service and Bureau of Land Management, have jurisdiction over hundreds of river runs across the state. Many counties across the state also manage access to waterways. Finally, federally-licensed hydropower operators in Oregon provide access to waterways under the requirements of the Federal Power Act to provide for “protection of recreational opportunities” on waterways impacted by hydropower operations.⁸ These agencies have revenue structures in place to support recreational paddling on waterways they manage. While HB 2320 makes tacit acknowledgement of this in Section 7(2)(c) with provisions to waive the permit on federally-designated Wild and Scenic rivers where a fee system is in place, the legislation fails to recognize the breadth of management solutions that have been implemented to address non-motorized boating needs.

Economic Impacts

We urge the legislature to carefully consider the economic impact of new regulations for paddlesports that could impact participation and the associated economic benefits. Outdoor recreation in Oregon generates \$12.1 billion in consumer spending, supporting

⁵ <http://www.oregon.gov/OSMB/boater-info/Pages/Non-Motorized-Boating-and-Paddling.aspx>, accessed February 28th, 2017.

⁶ http://www.oregon.gov/oprd/Trail_Programs_Services/Pages/Oregon-Water-Trails.aspx, accessed February 28th, 2017.

⁷ <https://www.nps.gov/watertrails/>, accessed February 28th, 2017.

⁸ 16 U.S.C. § 797(e)

141,000 direct jobs and generating \$955 million in state and local tax revenue.⁹ Canoeing and kayaking represent growth activities in the State of Oregon with an estimated 21.1 percent of the population participating in non-motorized boating activities in 2011.¹⁰ This growth, and the associated economic activity and tax revenue, represents an existing benefit for the state.

Our members are highly experienced paddlers, where 16% paddle 41-70 days a year and 25% paddle more than 70 days a year. While our members represent an enthusiast population who would likely adhere to new requirements that may be imposed, the legislature should consider the potential impact of HB 2320 on those who may only boat a couple of days a year, have an interest in trying the sport for the first time, or who are traveling from out of state.

Recognizing the barriers to participation that would likely occur in instituting a permit system, Florida recently announced their decision to promote non-motorized boating without new fees or permitting requirements. The Florida Fish and Wildlife Conservation Commission convened a Boating Advisory Council to consider a proposal to expand vessel registration to non-motorized boats in Florida. On February 1st, 2017, Florida Fish and Wildlife Conservation Commission Director Nick Wiley issued a statement that “we are not supportive of increasing fees on Floridians or visitors who participate in non-motorized boating. The FWC greatly values our boating community and will continue to work hard to keep Florida’s standing as the boating capital of the world without increasing costs and fees.”¹¹ Oregon should similarly consider the impacts of new registration or permitting requirements that would become barriers to participation with associated economic impacts.

Priorities for Non-Motorized Boating Program

If the Marine Board implements a Non-Motorized Boating Program, our members overwhelmingly agreed that improved access to Oregon’s waterways should be the top priority. Among our members, 58% prioritized Acquisition for Access (purchase, lease, or easement) as the top priority, followed by 11% who prioritized capital investment in infrastructure to improve access as the top priority. This finding is consistent with the State Comprehensive Outdoor Recreation Plan that found “access to waterways” as the second highest priority need for outdoor recreation statewide and the top priority for many counties across the state.¹²

⁹ The Outdoor Recreation Economy, Take It Outside for Oregon Jobs and a Strong Economy. https://outdoorindustry.org/images/ore_reports/OR-oregon-outdoorrecreationeconomy-oia.pdf, accessed February 28th, 2017.

¹⁰ At Page 68, 2013-2017 Statewide Comprehensive Outdoor Recreation Plan Oregon Parks and Recreation Department, https://www.oregon.gov/oprd/PLANS/docs/scorp/2013-2018_SCORP/2013-2017_Oregon_SCORP.pdf, accessed February 28th, 2017.

¹¹ <https://twitter.com/MyFWC/status/826846757950722048>, accessed February 28th, 2017.

¹² At page 43, 2013-2017 Statewide Comprehensive Outdoor Recreation Plan Oregon Parks and Recreation Department, https://www.oregon.gov/oprd/PLANS/docs/scorp/2013-2018_SCORP/2013-2017_Oregon_SCORP.pdf, accessed February 28th, 2017.

The legislature should critically evaluate the need for a new program to fund investment in access to waterways given the existence of current programs that serve this need. The Land and Water Conservation Fund invests earnings from offshore oil and gas leasing to support outdoor recreation for state and local projects as well as federal projects¹³; the State and Local Assistance Program is administered by Oregon Parks and Recreation Department while the Federal Land Acquisition Program provides resources for access on federal lands and along Wild and Scenic river corridors. The Land and Water Conservation Fund made the recent acquisition of lands critical to providing access to paddlers on the Sandy River possible. The Local Government Grant Program administered by Oregon Parks and Recreation Department is funded from voter-approved Lottery money and also provides resources for access to waterways.¹⁴ A recent project funded by this program was the acquisition of Punch Bowl Falls, a critical access site for paddlers on the Hood River that received a \$470,000 grant for acquisition in 2015. Finally, the Recreational Trails Program, an assistance program of the Department of Transportation's Federal Highway Administration and administered by Oregon Parks and Recreation Department, provides assistance to trail projects that enhance river access as well as water trail projects.¹⁵ A recent project includes improvements to the Gravel Bin site on the North Umpqua River. While we strongly support enhanced investment in access to rivers, which is a need that is consistently identified by our members and recognized by the State Comprehensive Outdoor Recreation Plan, we urge the legislature to consider an evaluation of effectiveness of existing programs administered by Oregon Parks and Recreation Department and federal agencies. These existing programs do not rely on user fees and do not require the associated infrastructure and overhead necessary to collect such fees.

Other priorities for a non-motorized boating program like operations and maintenance, law enforcement, education programs, staff, and aquatic invasive species prevention were listed as lower priorities.

Personal Floatation Device

American Whitewater actively supports efforts to encourage use of a Personal Floatation Device (PFD). The American Whitewater Safety Code includes guidance on personal preparedness and responsibility to wear a life jacket.¹⁶ Regarding requirements to wear a PFD when using a non-motorized craft (defined by HB 2320 as objects other than a boat such as single inner tubes, air mattresses, pool toys, surfboards and body boards) on a river or stream as proposed in Section 11 of HB 2320, 39% of our members were in strong support and 16% were moderately supportive. Others favored education over regulation, with 15% strongly opposed to a new law requiring PFD use when recreating with non-motorized craft that are not boats and 9% were moderately opposed. We support encouraging PFD use but request that the state legislature carefully consider whether a new law is the best approach. Some of

¹³ <https://www.nps.gov/subjects/lwcf/index.htm>, accessed February 28th, 2017.

¹⁴ <http://www.oregon.gov/oprd/GRANTS/pages/local.aspx>, accessed February 28th, 2017.

¹⁵ <http://www.oregon.gov/oprd/GRANTS/pages/trails.aspx>, accessed February 28th, 2017.

¹⁶ <http://www.americanwhitewater.org/content/Wiki/safety:start?>, accessed February 28th, 2017.

our members expressed concern that if you were at your favorite river swimming hole you would not be required to wear a PFD while swimming but as soon as you climbed on an inner tube you could be cited for not wearing a PFD. Many of our members also expressed concern with the fact that these users of non-motorized craft, who are a primary target of education efforts proposed to be funded by the program, would be exempt from the non-motorized boating permit requirements.

Conclusion

While we appreciate the efforts of the Marine Board to engage the paddlesports community and consider options to improve service to meet user needs, we have concerns with the Non-Motorized Boating Program as proposed by HB 2320. A significant portion of our members are opposed to the Non-Motorized Boating Permit and have concerns with the ability of the Marine Board to administer a program that meets the needs of the paddlesports community. We are also concerned with the potential economic impacts of creating new barriers to participation in paddlesports. We agree with the focus of improving access to waterways but note that existing programs are in place that could be further improved and enhanced before considering implementation of a new fee-based program. Finally, we fully support efforts to further educate river users on the need to wear a Personal Floatation Device when recreating on the state's waterways but are concerned that the primary education targets for this effort would be exempt from fees to support the program. We also note that education could be more effective than regulation. Thank you for considering our perspective on this legislation.